

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 12 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES JAMES BILLINGSLEY, JR.,

Defendant - Appellant.

No. 03-10717

D.C. No. CR-02-00222-FCD

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, District Judge, Presiding

Submitted December 5, 2005 <sup>\*\*</sup>

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Charles James Billingsley, Jr., appeals his guilty plea conviction for possession of a firearm during a drug trafficking offense and for possession of

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

equipment used to manufacture a controlled substance in violation of 18 U.S.C. § 924(c) and 21 U.S.C. § 843(a)(6).

As part of his plea agreement, Billingsley waived his right to appeal his conviction or sentence so long as his sentence did not exceed fifteen years. Relying on the Supreme Court's holding in the subsequently decided *United States v. Booker*, 125 S. Ct. 738 (2005), Billingsley contends that his plea, and its appellate waiver, was not intelligent or voluntary because the district court misinformed him that the Sentencing Guidelines were mandatory. Billingsley's contention is foreclosed by *United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (“[A] change in the law [such as *Booker*] does not make a plea involuntary and unknowing.”). Accordingly, we enforce the appeal waiver, and dismiss. *Id.*

**DISMISSED.**